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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,583	11/13/2001	Gerard Laurent Buisson	8330M	6598

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EXAMINER

HYLTON, ROBIN A.

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 01/21/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/008,583

Applicant(s)

BUISSON ET AL.

Examiner

Robin A. Hylton

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 1-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27-32 and 35 is/are rejected.
- 7) ☒ Claim(s) 33 and 34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of the restriction requirement in Paper No. 11 is acknowledged. The traversal is on the ground(s) that "the lid of Group II has specifically designed utility for the container of Group I" and the examiner has not shown either the lid or container can be used with another. This is not found persuasive because the lid of Group I does not claim limitations directed to a container having specific lip configurations. The only commonality between the claimed lid and the claimed container is a triangular-shaped perimeter or cross-section. This in no way limits the use of the lid with the claimed container. As set forth in the restriction requirement of Paper No. 9, the lid can be used with any triangular-shaped container.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in Paper No. 11.

It is noted that not all of claims 1-26 read on the provisionally elected species depicted in Figure 1 as asserted by applicant in Paper No. 11.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the projection comprising a plurality of projections must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Art Unit: 3727

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The structure of the container and lid is not clearly set forth in claim 35. how is the lid attached to the container such as to initially directed a lifting force to at least one of the corner portions?

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 27,31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ramirez et al. (US 5,934,472) in view of Sasaki (JP 09043398).

Ramirez teaches a container comprising a lip having sides structure differently than the corner portions of the lip (fig. 6). To the degree set forth in the claim, the corner portions and side portions are adapted to exhibit uniform reaction pressure when apply a membrane lid to the lip.

Sasaki teaches it is known to provide a container of different shapes including square and triangular.

Art Unit: 3727

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of a triangular shape to the container of Ramirez as an obvious matter of design choice since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art.

7. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 27 above, and further in view of Edgar (US 203,328).

Ramirez as modified teaches the claimed container except for the sides of the lip having an outwardly protruding W-shaped outer wall surface.

Edgar teaches it is known to provide a container lip with an outwardly protruding W-shaped outer wall surface. Although Edgar discloses a sheet metal pan, the strengthening configuration of the lip is applicable to plastic containers as well so as to not increase the overall thickness of the lip.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the container of Ramirez by applying the teaching of an outwardly protruding W-shaped outer wall surface. Doing so increases the strength of the lip.

8. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 27 above, and further in view of Nægeli et al. (US 5,353,985).

Ramirez as modified teaches the claimed container except for the lid having a projection including a tab.

Nægeli teaches it is known to provide a lid having a projection including a tab for initially directing a lifting force to at least one of the corner portions.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the container of Ramirez by applying the teaching of lid having a

Art Unit: 3727

projection including a tab for initially directing a lifting force to at least one of the corner portions. Doing so reduces the amount of material used to produce a sealed container and allows for ease of opening.

9. Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 27 above, and further in view of Letica (US 4,349,119).

Ramirez as modified teaches the claimed container except for the U-shaped surfaces of the lip.

Letica teaches it is known to provide a container lip having a flat outwardly facing surface (fig. 5) or a U-shaped outwardly facing surface (fig. 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the container of Ramirez by applying the teaching of U-shaped outwardly facing surfaces of the lip as an obvious matter of design choice since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art.

#### ***Allowable Subject Matter***

10. Claims 33 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art containers and lids are cited for their disclosures.

12. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which

Art Unit: 3727

require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

13. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-7306 on the date shown below:

Typed or printed name of person signing this certificate

\_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_


14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner works a flexible schedule, but can normally be reached on Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Bemby at (703) 306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

RAH  
January 11, 2004

  
Robin A. Hylton  
Primary Examiner  
GAU 3727